App. F. IX-4

193 .
( )
Legis

File No. 68-39
Serial Nos. 1

Previous References
P.P. 52-37 (1-3)
" (4-5)
P.P. 12-38 (9)

Later References.
Legis 20-39 (1-6)
" Div. 8439 839

PRESERVED

24

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. are nil

Part B for September 1940

SUBJECT.

Application of Aircraft Act to Guyana.

WD 0573—GPB—22,500—12-9-39

B.B. Shanklin
14.11.40.

Application of Aircraft Act to Mysore

General and Revenue Secretariat. | File No. | of 19 . | App. F. III-2

Serial No.

From

The Secretary to the Hon'ble the Resident

Con. 7. No 59-39 dated 4. 9. 39

requesting that the Indian Aircraft Act may be applied to Mysore with the Defence of India ordinance.

The Defence of India Ordinance and three other British Indian Acts have already been applied to Mysore by Act XXIII of 1939. Separate action has to be taken to apply the Aircraft Act separately.

A draft reply to the Residency is put up.

Issued Pol 351 dated 6/7 - 9 - 1939

An Emergency Act has to be promulgated on the lines of the British Indian Act. In the P. W. D. it is suggested that the ~~central government functions~~ so much of the British Indian Act as will enable a State to undertake State functions may be applied to the State.

But the Act is a purely empowering one, the real substance of the law being contained in the rules. The Act which gives power to frame various rules appears to require very little Change. The suggestions in the Memorandum will be incorporated in the Rules.

A draft Bill is put up

Clause 9 of the British Indian Act is omitted.

Clause 14 also has been omitted as the rules have to come into force simultaneously with the Act.

S.I.E. Contn. Sheet.

Defence of India — legislation re aviation.

File No. of 19 General and Retrenchment Secretariat.

Serial No.

SEP 29 [illegible]
3621

2542

SECOND MESSAGE [illegible]
29 SEPT. 1939
No. 2661

Section 15 applies section 42 of the Indian Patents and Designs Act to aircraft. There is no section corresponding to section 42 (2) in our Patents and Designs Act. Agreeably to the suggestion in the Memorandum, an additional clause adding a provision corresponding to section 42 to our Patents & Designs Act is put up.

Section 16 re Customs has also been deleted.

Submitted for orders

Sd/-
7.9.39.

only sections 9, [illegible], 15, 20, 19(2) have been omitted from the Indian Aircraft Act. This will also be in force during the War. It may be missed in the defence ordinance & may be included in the amending bill.

1st Member)

CE
27/9/39

CMM
29/9/39

Dewan
2nd Member)

CE
29/9/39

MD
29-9-39

CE
30.9

Legn/10

Application of Indian Aircraft Act to Mysore

1515

Serial No.	
	The Aircraft Act has been applied to Mysore by Act XXV of 1939 amending the Defence of India Ordinance as applied to Mysore.

Sd/-

NOTE—Contn. Sheet.

1518/P

68-39-1

~~SECRET~~
URGENT

SECY. LAW DEPT
5 SEP. 1939
GOVT OF MYSORE

Con.F.No.59-39

From

The Secretary to the Hon'ble the Resident
in Mysore.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

Law Secy's note
Compts.
MMS
5/9

Dated Bangalore, the 4th Sept. ~~August~~ 1939.

6/9

DEFENCE OF INDIA ORDINANCE.

Sir,

Flag "E"

I am directed to refer to my letter No.F.59-39, dated the 11th August 1939, and to request you to add the Indian Aircraft Act (XXII of 1934) to the list of Acts mentioned in paragraph 3.

2. In regard to this Act the policy, as explained in letter from this Residency R.Dis.No.F.43-39/R.O.I, dated the 28th February 1939, has hitherto been that the Indian States should not apply it, but should take as their model the memorandum on "Control of Aviation in Indian States", a copy of which was sent to the Government of Mysore with letter from this Residency No.F.78-37/R.O.I, dated the 15th December 1937. Further examination of the position, however, indicates that for the purposes of the Defence of India Ordinance and Rules it will not be sufficient if the Aircraft legislation in the Indian States consists of the memorandum mentioned above. It is, therefore, considered desirable that if and when the Defence of India Ordinance and Rules are promulgated, Indian States should, notwithstanding the advice hitherto given to them not to apply the Aircraft Act, apply so much

Flag "P"

Flag "Y"

MEMORANDUM EXPLAINING THE FUNCTIONS OF INDIAN STATES WITH REFERENCE TO THE INDIAN AIRCRAFT ACT, 1934 (ACT XXII OF 1934) AND THE INDIAN AIRCRAFT RULES, 1937.

INTRODUCTION.

The object of this memorandum is to explain how Indian States can conveniently legislate on the lines of the Indian Aircraft Act and the Indian Aircraft Rules and conformably to the late Foreign and Political Department Resolution No. F. 150-R/31, dated the 8th August 1932, so that if and when it becomes necessary for States to apply the Defence of India Ordinance and Rules to State territories, the provisions therein relating to aviation matters may be as effective in the States as they will be in British India.

2. The underlying principle of States' legislation should be:—

(a) to give effect to the International Convention for the Regulation of Aerial Navigation, 1919, to which India as a whole is a signatory (vide Clauses III and IV(f) of the Resolution dated 8th August 1932),

(b) to provide for the execution by the Government of India of all functions which are common to the whole of India or which, for reasons of uniformity and preservation of standards, it is desirable to centralise (vide, for example, Clause IV(f) and (g) of the Resolution dated 8th August 1932).

3. The most important principle incorporated in the Convention is freedom of navigation for the private aircraft of all contracting States over the territories of all others. In normal times this freedom must be preserved in the legislation of all contracting States (vide Clause IV(c) of the Resolution dated 8th August 1932). Although in emergency such freedom of navigation will of course be restricted, the principle is mentioned in this memorandum because it has been one of the bases of British Indian legislation.

4. To a large extent the legislation of the Indian States can follow that of British India, but modifications are necessary in certain respects:—

(a) The Indian Aircraft Act, 1934, while it contains one or two general statements of law, is largely an empowering Act. It empowers the Governor-General in Council to make rules for British India, and the real substance of the law is contained in the Indian Aircraft Rules. In Indian States the rules could be made either by virtue of an empowering Act or in the shape of a self-contained enactment without the background of an empowering Act, in which case it would follow that the only section of the Act requiring reproduction would be that relating to general clauses, e.g. Section 17: Law as to trespass and nuisance. The detailed notes which follow are drafted for a case in which an empowering Act has been provided.

(b) The Indian Aircraft Rules contain a number of general mandatory provisions in Part II, requiring compliance with the more detailed rules set out in the succeeding parts. Of these detailed rules, some (generally those which relate to the aircraft and its personnel as continuing entities) fall within the functions of the Government of India, while, the others (generally those having particular relation to time and place) fall within the functions of the Indian State. Thus, Rule 5 in Part II requires any aircraft which flies within British India to be registered and marked. The detailed rules for registration and marking of Indian aircraft are in

Part IV. Registration and marking are continuing states of existence. Within an Indian State it is necessary to prevent unregistered aircraft flying, but the State is not the registering authority. Therefore all States should make rules corresponding to Rule 5, but no State should make rules corresponding to Part IV. Again, Rule 16 in Part II requires observance of the Rules of the Air set out in Part XII. Conformity with Rules of the Air has relation to time and place. Therefore it is necessary for States to make rules corresponding to both Rule 16 and Part XII.

5. The detailed notes which follow are based on the principles set out in the preceding paragraphs of this memorandum and are stated with specific reference to each section of the Indian Aircraft Act and each Rule or Part of the Indian Aircraft Rules.

INDIAN AIRCRAFT ACT.

Section and Subject.	Modifications required and remarks.
Title and Preamble.	Formal modification only. Omit the word "better".
Section 1.	
Short title and extent.	Formal modification only.
Section 2.	
Definitions.	The definitions of "aircraft" and "aerodrome" should be reproduced.
Section 3.	
Power of exemption.	Power to exempt aircraft and persons should be taken by the States, but should only be used on very rare occasions and in general only after consultation with the Government of India.
Section 4.	Some parts of the Convention have to be incorporated in the Rules *in toto* (e.g., Annexure D, Rules of the Air, etc.). Other parts (e.g., Annexure A—Registration, marking of aircraft, Annexure E, Licensing of Personnel) fall within the province of the Government of India and should not be incorporated in the State Rules. In the body of the Convention are incorporated certain general principles to which effect should be given by States (e.g., Article 2—Freedom of passage for aircraft of contracting States, Article 3—Rules regarding prohibited areas). Some of these Articles are given specific effect in the Rules, while others need no specific rule, being operative merely by the absence of any conflicting legislation. The legislation of Indian States should, therefore, provide for the application of the Convention in association with the Government of India.
Section 5.	
Sub-section (1), sub-section (2).	Similar provision should be made.
(a) Authorities.	Similar provision.
(b) Aerodrome licensing.	The control of aerodromes within States territory is a State function (vide Foreign and Political Department Resolution dated 8th August 1932, Clause IV (b) and (h)). The standard to be complied with in aerodrome staff should be that adopted in British India. Provision should be made for the necessary powers.
(c) Inspection of manufacture and factories.	The inspection of aircraft, because of its highly technical nature, is a central function. (vide Foreign and Political Department Resolution dated 8th August 1932, Clause IV (f) and (h)). Provision should be made for the necessary powers to enforce this inspection.
(d) Registration of aircraft.	There is only one register of aircraft and one series of markings for India (vide Foreign and Political Department Resolution dated 8th August 1932, Clause IV (f)). Provision should be made for the necessary powers to enforce registration and marking.

Section and Subject.	Modifications required and remarks.
Section 5—cont.	
(e) Conditions of flight, etc.	The 'conditions' referred to are incorporated in various provisions designed to secure safety and compliance with the International Convention. These should be uniform for all India. Provision should be made for the necessary powers.
(f) Inspection of aircraft. (g) Licensing of personnel.	These are central functions (vide F. & P. Resolution, Clause IV (f)). Provision should be made for the necessary powers to enforce inspection and licensing.
(h) Prescribed air routes and landing places.	Clause IV (d) of the F. & P. Resolution provides for the protection of the fiscal rights of the States, for which purpose customs aerodromes may be designated. It is unnecessary and undesirable that specific air routes should be prescribed. Customs aerodromes should be situated in places convenient to the normal air routes. Provision may be made as necessary.
(i) Prohibited areas.	Prohibited areas may only be declared after consultation with the Government of India (vide Clause IV (c) of F. & P. Resolution). Provision should be made for the necessary powers.
(j) Aerodrome and air route lighting.	It is desirable that a uniform system should prevail throughout India, as in the case of aerodromes, and there should be consultation with the Government of India on this matter. The control of this matter will be in the hands of the States. Provision should be made.
(k) Signals.	Signals are standardised internationally and it will be necessary for the States to enforce the rules of the International Convention. Provision should be made.
(l) Prohibited carriage.	The Convention prohibits the carriage of arms of war in international navigation. From time to time it may be necessary to prohibit the carriage of other articles. It is desirable that the rules should be uniform for all India. There should therefore be consultation with the Government of India. Provision should be made.
(m) Safety apparatus.	It is desirable that the provision should be uniform throughout India. In some matters this will be covered by the rules as to airworthiness in the Indian Aircraft Rules, but it is necessary that the States should have powers to supplement these. Provision should be made.
(n) Log Books.	This is a central function (vide F. & P. Resolution, Clause IV (f)). Provision should be made for the necessary powers to enforce this.
(o) Issue, etc. of licences. (p) Fees for licences, etc. (q) Recognition of foreign licences.	These are centralised functions (vide F. & P. Resolution, Clause IV (f)). Provision should be made for the necessary powers to enforce these conditions.
(r) Subsidiary matters.	Provision should be made.
Section 6.	
Emergency powers.	The emergency in which it would be necessary to take the measures prescribed in this Section would necessarily be grave and it is unlikely that an emergency of an internal nature within a State would be such as to justify these measures. It is advisable therefore that these powers should be exercised only after consultation with the Government of India. In some matters control will rest with the Government of India (e.g., licences). Provision should be made.

Section and Subject.	Modifications required and remarks.
Section 6—cont.	
Sub-section (1)	
(a) Cancellation of licences.	Power rests with the Government of India to cancel licences and certificates issued by them (e.g., pilots' licences, certificates of registration, etc.). Aerodrome licences will be issued by the State. Power should be taken in accordance with this clause to cancel or suspend aerodrome licences after consultation with the Government of India.
(b) Prohibition of flights.	Provision should be made to give effect to this clause after consultation with the Government of India.
(c) Prohibition or regulation of use of aerodromes, factories, etc.	As in (b) above.
(d) Requisitioning of aircraft, aerodromes, etc.	This clause provides for the aircraft, aerodrome, etc., requisitioned to be at the disposal of His Majesty. Similar provision should be made.
Sub-section (2) Compensation for injury or loss.	Provided that action is only taken at the request of the Government of India, compensation should be paid by the Government of India and it is unnecessary for the States to make provision.
Sub-section (3) Steps to secure compliance.	Provision should be made.
Sub-section (4) Penalties.	Provision should be made.
Section 7.	
Accident investigation.	The investigation of accidents is a highly technical matter for which the States will not have the necessary personnel and organisation. F. & P. Resolution dated 8th August 1932, Clause IV (g) provides for the co-operation of the State authorities with the Government of India in this matter. The investigation of an accident necessitates an enquiry into the skill of the pilot, the airworthiness of the aircraft, the suitability of the landing ground and other factors such as weather conditions. Apart from the qualifications of the personnel necessary to make this enquiry, the co-ordination of all accident investigation results is desirable. Consequently, the States should provide for the investigation of accidents by the Government of India and in particular for the enforcement of clauses (a) and (c) of sub-section (2) of this Section.
Section 8.	
Power to detain aircraft.	The occasions for desiring to detain aircraft may be, for example, the dangerous state of the aircraft or perhaps the ill-health of the pilot. It is necessary that aerodrome officers, when suitable personnel is appointed in this capacity, should have this power. Provision should accordingly be made.
Section 9.	
Wreck and salvage.	In the case of Indian States on the sea coast, who have legislation corresponding to the Indian Merchant Shipping Act, it will be necessary to apply the corresponding section to aircraft.
Section 10. ,, 11. ,, 12. Penalties.	Suitable penalties for breach of any of the provisions of the Act which are independently applicable in the State should be enacted. In matters on which the Indian Aircraft Rules apply, and to a less extent in others, it is desirable that the scale of penalties should be uniform with those in British India.
Section 13.	
Forfeiture of aircraft, etc.	The occasions on which forfeiture of the aircraft or thing in respect of which an offence is committed is an appropriate penalty are rare, and occur mainly in respect of matters on which rules will be made only in consultation with the Government of India. Nevertheless it is necessary that a Court in a State should have power to order forfeiture.

Section and Subject.	Modifications required and remarks.
Section 14. Rules to be made after publication.	The period of publication before the making of the rules was fixed at 3 months in British India in accordance with the expressed wish of the Legislature. On this matter each State may decide for itself in accordance with established practice.
Section 15. Patents.	The intention of this Section is to prevent the seizure or detention of an aircraft engaged on a flight through the territory covered by the legislation on account of alleged infringement of a local patent. In those States which have Patent Laws which do not already provide this protection, a similar provision should be made.
Section 16. Customs.	In general it is desirable to impose as few restrictions as possible to the free movement of aircraft internally in India. In the case of States which preserve a measure of autonomy in relation to customs, they may establish customs aerodromes (vide Foreign and Political Department Resolution, Clause IV (d)) and provide for the application of rules for the production of goods for inspection, etc.
Section 17. Bar of certain suits. *Section 18.* Acts done in good faith.	These sections incorporate general legal principles, the first, only, having particular relation to aviation. Similar provisions should be enacted.
Section 19.	
Sub-section (1). Military aircraft.	It is necessary to exclude all Military aircraft and personnel from the application of any legislation which may be enacted.
Sub-section (2). Lighthouses.	The object of this sub-section is to ensure that no aerodrome light or air route light shall interfere with any marine lighthouse. Maritime States, where the provision is appropriate, should ensure that this object is secured either by legislation or otherwise.
Section 20. Repeal of Indian Aircraft Act, 1911.	Not applicable.

INDIAN AIRCRAFT RULES, 1937.

PART I.—PRELIMINARY.

Rule 1.	
Sub-rule (1). Short title.	Formal modification required.
Sub-rule (2). Extent.	Formal modification of the territorial limits is required. The subjects which are detailed as matters on which the law of the country of registration prevails (viz. registration, licensing of personnel, airworthiness and log books) are generally speaking those which have been defined as central subjects in the Foreign and Political Department Resolution dated 8th August 1932, and in the preceding notes on the Indian Aircraft Act. Detailed rules on these particular subjects will not appear in the States rules, but references to the necessity of complying with the appropriate rules appear throughout Part II. It is therefore appropriate, in the States rules, to except these matters in the same way as in this sub-rule.
Rule 2. Nationality of aircraft.	A similar rule is necessary.
Rule 3.	
Sub-section (1). Definitions and interpretation.	The following definitions should be omitted, viz :— "Export" "Import"

In the definition of "State aircraft", it should be noted that "State service" means in His Majesty's Service. So far as military aircraft are concerned, the definition and any rules which follow on it must not have the restricted meaning of "Indian State Aircraft".

Sub-section (2). Delegation of powers. Formal modifications in this Rule are required.

PART II.—General conditions of flying.

Generally speaking all the rules in this Part should be enacted by States with such verbal modifications as are necessary to refer to the rules of the State in which the aircraft is registered or to the Indian Aircraft Rules, instead of to particular rules or parts of the Indian Aircraft Rules.

Rule 4.

Use and operation of aircraft. The rule should be repeated.

Rule 5.

Registration and nationality and registration marks. The rule should be repeated with the following modifications:—

Clause (b). Omit the words "in accordance with rule 37, or, in the case of aircraft registered, etc., etc.....it is registered"

Proviso. This should be repeated in such form as will reserve the power of exemption to the Government of India, since it is the Central Government which controls registration throughout India.

Rule 6.

Licensing of personnel. This can be reduced to a simple reference to the Indian Aircraft Rules, the rules as to carriage of personnel being unduly complicated and too much subject to change, for repetition, and the rules as to licensing being wholly a matter for the Government of India.

Thus—

"Every aircraft shall carry and be operated by the personnel prescribed in the Indian Aircraft Rules, 1937, for flight in British India".

Rule 7.

Documents to be carried in aircraft. As in the case of Rule 6, this can be related to the Indian Aircraft Rules, thus—

"No person in charge of any aircraft shall allow such aircraft to be flown unless the documents prescribed in the Indian Aircraft Rules, 1937, for flight in British India are carried on board the aircraft".

Rule 8.

Carriage of explosives and arms. This rule should be repeated with a formal modification in clause (b) of the reference to the Indian Arms Act, 1878.

(The purport of clause (b) is to allow the carriage of licensed arms in aircraft as in other vehicles).

Rule 9.

Radio telegraph apparatus. As in the case of Rule 6, this rule can be dealt with by a reference to the Indian Aircraft Rules, since the Central Government is the authority for the licensing of wireless apparatus and wireless personnel, thus—

"Aircraft shall be fitted with radio telegraph apparatus in accordance with and the conditions governing the operation of radio telegraph apparatus in aircraft shall be governed by the Indian Aircraft Rules, 1937"

Rule 10.

Mails. No mails may be carried to or from the State without the permission of the Director-General of Posts and Telegraphs, India, but States may reserve the right to carry mails by air on their own air services within their own territory.

The rule may be modified accordingly

Rule 11.

Aerodromes.

This rule should be repeated with a modification of the reference to Part IX to refer to the detailed rules established by the State.

Rule 12.

Prohibited areas.

There is at present no prohibited area in any State. There will therefore be no Schedule I and it is unnecessary to repeat this rule. If and when a prohibited area is approved by the Government of India the rules may then be published. It should be noted in this connection that it is an international obligation of the Government of India under the convention to notify the International Commission of all prohibited areas and they apply by virtue of the convention equally to all aircraft except military, posts, customs or police aircraft.

In India there are no State aircraft other than military aircraft, and without special exemption the rules as to prohibited arms would apply to any such aircraft which might come into existence.

Rule 13.

Photography from aircraft.

In British India, only the photography of prohibited areas is prohibited, and for this purpose the rule is not necessary in States. It is undesirable to establish unnecessary restrictions on photography—it interferes with the proper course of development in such matters as air survey and except for such purposes as military security it is now widely recognised that air photography is open to little objection. The rule is therefore not necessary.

Rule 14.

Aerial work and public transport reserved for certain aircraft.

It will be observed that the Indian Aircraft Rules permit the registration of aircraft in India in Category B by non-British subjects or companies. These aircraft are not permitted to engage in public transport or aerial work (anywhere) without the special permission of the Governor-General in Council. This restriction must be preserved. Similarly aircraft which are not registered in British India are only allowed to engage in these activities with the express permission of the Governor-General in Council and subject to such restrictions as may be prescribed, and this control will continue to be exercised for the whole of India by the Government of India. States Rules should provide that no aircraft registered under the Indian Aircraft Rules in Category B and no aircraft not registered in British India shall be used as an aerial work aircraft or as a public transport aircraft without the permission in writing of the State authorities, which should only be given after consultation with the Government of India.

As regards aircraft registered in Category A (owned by British subjects or companies), it is undesirable to impose restrictions on the freedom of development of internal aviation in India as a whole. The territory of most States is too restricted to permit of any effective air transport wholly within its limits. Nevertheless every State has the right to impose restrictions on the carriage of persons or goods for hire between any two points in its territory (vide Clause IV (e) of F. & P. Resolution dated 8th August 1932). States may therefore make a rule that such carriage is dependent on their prior authorisation. It is undesirable to use the term 'national aircraft' in this connection. This conflicts with Rule 2, which itself gives effect to the International Convention. No conception of 'national aircraft' other than as defined in Rule 2 is recognised.

Rule 15.

Conditions to be complied with by aircraft in flight.

As in the case of Rule 6, this rule refers mainly to the fulfilment of conditions prescribed in the Indian Aircraft Rules. It may be framed as follows :—

> "No aircraft engaged in international navigation, passenger aircraft, goods aircraft or mail aircraft, and no aircraft let out for hire for the purpose of being flown by the hirer, shall be flown unless the conditions prescribed in rule 15 of the Indian Aircraft Rules are complied with".

Rule 16.	
Rules of the Air.	This rule should be repeated with a modification of the reference to Part XII to the detailed rules in the State Rules.
Rule 17.	
Production of licences.	This rule should be repeated with the substitution of such officers or authorities as the State may select. It is desirable that gazetted officers of the Civil Aviation Department should be included in the list, so that they may perform their functions when carrying out inspections in States territory.
Rule 18.	
Production of flights in contravention of the Rules.	This rule should be repeated with such formal modifications as may be necessary.
Rule 19.	
Cancellation, suspension or endorsement of licences and certificates.	The rule should be modified to apply to aerodrome licences only, these being the only licences issued by the State.
Sub-rule (1).	Not necessary.
„ „ (2).	„ „
„ „ (3), (4) & (5).	These should be reproduced to apply only to aerodrome licences.
Rule 20.	
Certain rules not applicable to gliders and kites.	This rule should be reproduced to the extent necessary to exempt gliders and kites from the rules made by the State.

PART III.—General Safety Conditions.

The rules in this Part are largely of general application and should be applied in the States, with such formal modifications as are necessary in references to authorities in British India. Detailed notes are not necessary, but it may be observed that sub-rules (1) and (2) of Rule 25—"Smoking in aircraft" are continuing conditions relating to aircraft provided with a certificate of airworthiness. It is not strictly necessary therefore for them to be reproduced in States Rules.

PART IV.—Registration and Marking of Aircraft.

The registration of aircraft will be carried out by the Government of India. It is only necessary to provide for sub-rule (1) of Rule 30:—

> "The authority empowered to register aircraft and to grant certificate of registration shall be the Government of India."

and that the owner of any aircraft shall comply with the Indian Aircraft Rules, 1937. This may be combined with Rule 5.

PART V.—Personnel of Aircraft and Schedule II.

In view of the proposed form of Rule 6 it is not necessary to make any provision for this Part or Schedule.

PART VI.—Airworthiness and Schedule III.

In view of the proposed form of Rule 15 it is not necessary to make any provision for this Part or Schedule.

PART VII.—Radio-telegraph apparatus.

In view of the proposed form of Rule 9 it is not necessary to make any provision for this Part.

PART VIII.—Air route beacons, aerodrome lights and false lights.

The rules in this Part should be reproduced with such formal modifications as are necessary.

PART IX.—Log Books.

In view of the proposed form of Rule 7 it is not necessary to make any provision for this Part.

PART X.—Investigation of accidents.

Such of the rules in this Part as are mandatory on pilots, owners, etc. or on the general public or are permissive to the Director of Civil Aviation in India should be reproduced. Provision should also be made for a formal investigation by a Court appointed by the State in accordance with Rule 75.

Rule 68. Definition.
Rule 69. Notification of accidents.
Rule 70. Report on accidents.
Rule 71. Removal of wreckage.
Rule 72. Inspectors investigation.
Rule 73. Powers of inspection.

These should be reproduced with such additions as the State may require to secure to the State information with regard to the accident.

Rule 74.

Inspectors fee.

No provision should be made except in respect of any person who may be appointed by the State to investigate accident.

Rule 75.

Formal investigation.

Provision should be made in accordance with the law of the State for the appointment in consultation with the Government of India, of a formal Court with the powers set out in this rule.

Rule 76.

Obstruction of proceedings.

This should be reproduced with such formal modifications as are necessary.

Rule 77.

Saving.

This should be reproduced with such addition as is necessary to empower the State to take the necessary action with regard to aerodrome licences.

PART XI.—Aerodromes, Schedule V.

The control of aerodromes is a matter for the State. In technical matters it is essential to secure uniformity throughout India and in other matters (e.g. fees) it is desirable. The rules should therefore be reproduced with such formal and other modifications as are necessary.

Rule 78.

Government aerodromes.

The object of this rule is to secure the closure to civil aircraft of certain R.A.F. and Army landing grounds. Further it establishes a system of approval for Government aerodromes as opposed to licence of private aerodromes. Aerodromes are only approved or licensed for the operations for which they are deemed technically suitable.

The rule should be reproduced with formal modification.

Rule 79. Places other than Government aerodromes.
Rule 80. Licensed aerodromes.

These should be reproduced with formal modifications.

Rule 81. Public aerodromes.
Rule 82. Tariff charges.

It is a condition of the International Convention that all public aerodromes shall be open on uniform terms to the aircraft of all contracting States.

These rules should be reproduced. The tariff of charges may be varied if it is considered necessary.

Rule 83. Qualification of licence.
Rule 84. Period of validity of licence.
Rule 85. Classification of aerodromes.

These rules should be reproduced.

Rule 86.

Conditions governing the grant of a licence. — This rule and the corresponding part of Schedule V should be reproduced with formal modifications.

Rule 87.

Fees. — Fees may be varied by the State if necessary. Formal modifications are required.

PART XII.—Rules of the Air.

These rules being related to time and place must be enacted by the State to make them applicable within their territory. The rules are prescribed in Annexure D of the International Convention and constitute an international obligation on all contracting States. They may not be varied.

Detailed notes are not required except with regard to Rules 118 and 133.

Rule 118.

Exemptions. — Power to exempt should be taken by the State. The power is exercised only in special cases for strong technical reasons, on which the advice of the Director of Civil Aviation may be sought.

Rule 133.

Special orders relative to navigation of aircraft in the immediate vicinity of an aerodrome. — Similar considerations apply as to Rule 118.

PART XIII.—General.

Rule 134.

Inspection — This rule should be reproduced with formal modification. It may be necessary for the State to authorise an officer of the Civil Aviation Department in this connection, when the occasion arises.

Rule 135.

Forgery, etc. of documents. — The rule should be reproduced.

Rule 136.

Foreign military aircraft. — The only authority competent to authorise the flight of foreign military aircraft over Indian territory is the Government of India. The rule should be enacted accordingly.

Rule 137.

Obstruction of authorised persons. — The rule should be reproduced.

Rule 138

General power to exempt. — It is desirable that the State should take this power, but it should be exercised only in exceptional circumstances.

Rule 139.

Penalties. — Penalties should be provided for such of the rules as are directly enforceable by the State, and for those rules of the Indian Aircraft Rules as are applied in the State.

SCHEDULE I.—Prohibited Areas.

See note on Rule 12, Part II.

SCHEDULE II.—Personnel.

See notes on Part V.

SCHEDULE III.—Airworthiness.

See notes on Part VI.

SCHEDULE IV.—Rules as to Lights.

This should be reproduced. See notes on Part XII.

SCHEDULE V.—Aerodromes.

Part A should be reproduced. Part B may be reproduced with modifications if desired. See notes on Part XI.

SCHEDULE VI.—Penalties.

This should be reproduced with formal modifications and such modification of penalties as is considered necessary.

766—4-9-1939—25—RPB.

CONFIDENTIAL

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 6th September 1939.

No. Ld 351

From

The Secretary to the Government of His Highness the Maharaja of Mysore,
Law Department.

To

The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

Sir,

DEFENCE OF INDIA ORDINANCE

I am directed to acknowledge the receipt of your letter Con.F.No.59-39 dated the 4th September on the above subject.

As the Defence of India Ordinance had been applied to Mysore by Act No. XXIII of 1939 before the letter under reply reached the Government, the Indian Aircraft Act could not also be included among the Acts of British India which were extended to Mysore by the Act. Action will however be taken to enact legislation here on the lines of the Indian Aircraft Act and the Memorandum attached to your letter under reply, very early.

I have the honor to be,

Sir,

Your most obedient servant,

Secretary to Government,
Law Department.

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THE MYSORE AIRCRAFT ACT, 1939.

Act No. XXIV of 1939.

An Act to make provision for the control of the manufacture, possession, use, operation, sale, import and export of aircraft.

(Received the assent of His Highness the Maharaja on the day of September 1939.)

WHEREAS it is expedient to make provision for the control of the manufacture, possession, use, operation sale, import and export of aircraft; It is hereby enacted as follows:-

Short title and extent.

1(1) This Act may be called the Mysore Aircraft Act, 1939.

(2) It extends to the whole of Mysore.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context, -

(1) " aircraft" means any machine which can derive support in the atmosphere from reactions of the air, and includes balloons whether fixed or free, airships, kites, gliders and flying machines;

(2) "aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers, and other structures thereon or appertaining thereto;

(3) "import" means bringing into Mysore; and

(4) "export" means taking out of Mysore.

Power of Government to exempt certain aircraft.

3. The Government may, by notification in the official Gazette, exempt from the provisions of this Act and of the rules made thereunder, or from any of such provisions, any aircraft or class of aircraft and any person or class of persons, or may direct that such provisions shall apply to such aircraft or persons subject to such modifications as may be

specified in the notification.

Power of Government to make rules to implement the Convention of 1919.

4. The Government may, by notification in the official Gazette, make rules for giving effect to the Convention relating to the regulation of Aerial Navigation signed at Paris, October 13, 1919, with Additional Protocol, signed at Paris, May 1, 1920, and any amendment which may be made thereto under the provisions of Article 34 thereof.

Power of Government to make rules.

5. (1) The Government may, by notification in the official Gazette, make rules regulating the manufacture, possession, use, operation, sale, import or export of any aircraft or class of aircraft.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the authorities by which any of the power conferred by or under this Act are to be exercised;

(b) the licensing, inspection and regulation of aerodromes, the conditions under which aerodromes may be maintained and the fees which may be charged thereat, and the prohibition or regulation of the use of unlicensed aerodromes;

(c) the inspection and control of the manufacture, repair and maintenance of aircraft and of places where aircraft are being manufactured, required or kept;

(d) the registration and marking of aircraft;

(e) the conditions under which aircraft may be flown, or may carry passengers, mails or goods; or may be used for industrial purposes and the certificates, licences, or documents to be carried by aircraft;

(f) the inspection of aircraft for the

purpose of enforcing the provisions of this Act and the rules thereunder, and the facilities to be provided for such inspection;

(g) the licensing of persons employed in the operation, manufacture, repair or maintenance of aircraft;

(h) the air-routes by which and the conditions under which aircraft may enter or leave Mysore, or may fly over Mysore, and the places at which aircra shall end;

(i) the prohibition of flight by aircraft over any specified area, either absolutely or at specified times or subject to specified conditions and exceptions;

(j) the supply, supervision and control of air-route beacons, aerodrome lights, and lights at or in the neighbourhood of aerodromes or on or in the neighbourhood of air-routes;

(k) the signals to be used for purposes of communication by or to aircraft and the apparatus to be employed in signalling;

(l) the prohibition and regulation of the carriage in aircraft of any specified article or substance;

(m) the measures to be taken and the equipment to be carried for the purpose of ensuring the safety of life;

(n) the issue and maintenance of log-books;

(o) the manner and conditions of the issue or renewal of any licence or certificate under the Act or the rules, the examinations and tests to be undergone in connection therewith, the form, custody, production, endorsement, cancellation, suspension of surrender of such licence or certificate, or of any log-books;

(p) the fees to be charged in connection with any instruction, examination, test, certificate or licence, made, issued or renewed under this Act;

(q) the recognition for the purposes of this Act of licences and certificates issued elsewhere than in Mysore relating to aircraft or to the qualifications of persons employed in the operation, manufacture, repair or maintenance of aircrafts; and

(r) any matter subsidiary or incidental to the matters referred to in this sub-section.

Power of Government to make orders in emergency.

6. If the Government is of opinion that in the interests of the public safety or tranquillity the issue of all or any of the following orders is expedient, it may, by notification in the official Gazette, -

(a) cancel or suspend, either absolutely or subject to such conditions as it may think fit to specify in the order, all or any licences or certificates issued under this Act;

(b) prohibit, either absolutely or subject to such conditions as it may think fit to specify in the order, or regulate in such manner as may be contained in the order, the flight of all or any aircraft or class of aircraft over the whole or any portion of Mysore;

(c) prohibit, either absolutely or conditionally, or regulate the erection, maintenance or use of any aerodrome, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept, or any class or description thereof; and

(d) direct that any aircraft or any class of aircraft or any aerodrome, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept, together with

any machinery, plant, material or things used for the operation, manufacture, repair or maintenance or aircraft shall be delivered, either forthwith or within a specified time, to such authority and in such manner as he may specify in the order, to be at the disposal of the Government for public service,

(2) Any person who suffers direct injury or loss by reason of any order made under clause (c) or clause (b) of sub-section (1) shall be paid such compensation as may be determined by such authority as the Government may appoint in this behalf.

(3) The Government may authorise such steps to be taken to secure compliance with any order made under sub-section (1) as appear to it to be necessary.

(4) Whoever knowingly disobeys, or fails to comply with, or does any act in contravention of, an order made under sub-section (1) shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and the court by which he is convicted may direct that the aircraft or thing (if any) in respect of which the offence has been committed, or any part of such thing, shall be forfeited to the Government.

Power of Government to make rules for investigation of accidents.

7(1) The Government may, by notification in the Official Gazette, make rules providing for the investigation of any accident arising out of or in the course of air navigation in or over Mysore.

(2) Without prejudice to the generality of the foregoing power, such rules may -

(a) require notice to be given of any accident in such manner and by such person as may be prescribed;

(b) apppy for the purposes of such investigation, either with or without modification, the provisions of any law for the time being in force relating to the investigation of accidents;

(c)prohibit pending investigation access to or interference with aircraft to which an accident nas occurred, and authorise any person so far as may be necessary for the purposes of an investigation to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft; and

(d) authorise or require the cancellation, suspension, endorsement or surrender of any licence or certificate granted or recognised under this Act when it appears on an investigation that the licence ought to be so dealt with, and provide for the production of any licence for such purpose.

Power to detain aircraft.

8 (1). Any authority ~~recognised~~ authorised in this behalf by the Government may detain any aircraft, if in the opinion of such authority-

(a) Having regard to the nature of an intended flight, the flight of such aircraft would involve danger to persons in the aircraft or to any other persons or property; or

(b) such detention is necessary to secure compliance with any of the provisions of this Act or the rules applicable to such aircraft; or such detention is necessary to prevent a contravention of any rule made under clause (h) or clause (i) of sub-section (2) of section 5.

(2) The Government may, by notification in the official Gazette, make rules regulating all matters incidental or subsidiary to the exercise of this power.

Penalty for act in contravention of rule made under this Act.

9. In making any rule under section 5, section 7 or section 8 the Government may direct that a breach of it shall be punishable with imprisonment for any term not exceeding three months, or with fine of any amount not exceeding one thousand rupees, or with both.

Penalty for flying so as to cause danger.

10. Whoever wilfully flies any aircraft in such a manner as to cause danger to any person or to any property on land or water or in the air shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for abetment of offences and attempted offences.

11. Whoever abets the commission of any offence under this Act or the rules, or attempts to commit such offence, and in such attempt does any act towards the commission of the offence, shall be liable to the punishment provided for the offence.

Power of court to order forfeiture.

12. Where any person is convicted of an offence punishable under any rule made under clause (i) or clause (i) of sub-section (2) of section 5, the Court by which he is convicted may direct that the aircraft or article or substance, as the case may be, in respect of which the offence has been committed, shall be forfeited to the Government.

Use of patented invention on aircraft not required in Mysore.

13. (1) The provisions of section 39 A of the Mysore Patents and Designs Act, 1925, shall apply to the use of an invention on any air craft not registered in Mysore in like manner as they apply to the use of the invention in a foreign ~~vessel~~ aircraft.

(2) After section 39 of the Mysore Patents and Designs Act, 1925, the following section shall

be added, namely:-

"39 A.(1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign ~~vessel~~ aircraft within the jurisdiction of any court in Mysore, or the use of an invention in a foreign ~~vessel~~ aircraft within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from Mysore.

(2) This section shall not extend to vessels of any foreign State of which the laws do not confer corresponding rights with respect to the use of inventions in ~~British vessels~~ Mysore aircraft while in the ~~ports~~ Territory of that State or ~~in the waters~~ within the jurisdiction of its Courts."

Bar of certain suits.

14. No suit shall be brought in any Civil Court in respect of trespass or in respect of nuisance by reason only of the flight of aircraft over any property at a height above the ground which having regard to wind, whether and all the circumstances of the case is reasonable, or by reason only of the ordinary incidents of such flight.

Saving for acts done in good faith under the Act.

15. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

Saving of application of Act.

16. ~~(1)~~ Nothing in this Act or in any order or rule made thereunder shall apply to or in respect of any aircraft belonging to or exclusively employed in ~~His Majesty's~~ The naval, military or air forces of His Majesty The King Emperor, or to any person in such forces employed in connection with such aircraft.

~~(2)~~